

REMARKS

This Amendment is a submission under 37 C.F.R. § 1.114 for a Request for Continued Examination (RCE).

In the Office Action, claims 1-8, 10 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 6,385,303 (Peterson) in view of U.S. Patent 6,021,181 (Miner). Claims 13-16 were rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Peterson and Miner in view of U.S. Patent 5,479,489 (O'Brien). For the reasons set forth hereinbelow, Applicants respectfully request that the rejections associated with the pending claims (i.e., claims 1-8, 10, 13-16 and 27) be withdrawn.

Claims 1-8, 10, 13-16 and 27

First, Applicants submit that claim 1 is nonobvious over Peterson in view of Miner because the cited references, either alone or in combination, fail to teach or suggest each and every element of claim 1. See MPEP § 2143 (stating that one of the elements of a *prima facie* case of obviousness under § 103(a) is that the cited references must teach or suggest every limitation of the claimed invention).

Applicants agree with the Examiner's determination that Peterson does not teach or suggest, among other things, "identifying the caller by analyzing the voice of the caller received when the caller speaks the name of the callee."

The Examiner has determined that Miner teaches "identifying the caller by analyzing the voice of the caller received when the caller speaks the name of the callee" as recited in claim 1. Applicants respectfully disagree with this determination and submit that Miner, at column 11, lines 20-67 thereof, merely discloses a system that uses voice recognition capabilities to allow a caller (Bill) to gain access thereto by uttering a special word (Wildfire), a password (Just Fine), or through a combination of both.

Applicants also submit that Miner merely identifies the caller (Bill) when the caller (Bill) utters the special word (Wildfire) - **not when the caller speaks the name of the callee (the name of a person)** as recited in claim 1.

The Examiner has also determined that Miner, at column 12 lines 30-50 and column 6, lines 45-60 thereof, discloses that a caller (Bill) invokes the virtual intercom feature by speaking the name of the person the caller is attempting to reach (Gregg). However, even if taken as true, Applicants submit that Miner teaches that the caller (Bill) has already been identified and has gained access to the system before the caller (Bill) speaks the name of another subscriber (Gregg).

**Second**, Applicants submit that claim 1 is nonobvious over the combination of Peterson and Miner because there is no suggestion or motivation from the prior art as a whole for a person of ordinary skill to have combined or modified these references to realize the invention of claim 1. See MPEP § 2143 (stating that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings).

Although Miner teaches that a caller (Bill) invokes the virtual intercom feature by speaking the name of another subscriber, Applicant respectfully disagrees with the Examiner's determination that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peterson with identifying the caller by analyzing the voice of the caller received when the caller speaks the name of the callee as taught by Miner. Applicants note that Peterson is directed to a system for identifying and announcing the caller and/or callee of an incoming telephone call whereas Miner is directed to an electronic voice mail handling system. Applicants also note that MPEP § 2143.01 specifically states that (1) the prior art must suggest the desirability of the claimed invention and (2) the level of skill in the art **can not be relied upon** to provide the suggestion to combine references.

**Third**, Applicants further submit that a § 103(a) rejection of claim 1 based on the combination of Peterson and Miner would be a hindsight reconstruction, using Applicants' claim as a template to reconstruct the invention set forth in claim 1 by picking and choosing isolated disclosures from the prior art. Such hindsight reconstruction is improper and impermissible under the law. The mere fact that references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *See* MPEP § 2143.01.

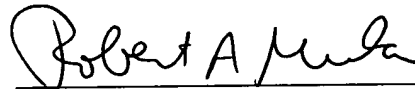
Thus, for each of the reasons stated hereinabove, Applicants submit that claim 1 is nonobvious over the combination of Peterson and Miner. Applicants further submit that claims 2-8, 10, 13-16 and 27, which depend from amended claim 1, are also nonobvious over the references of record. *See* MPEP §2143.03 (stating that if an independent claim is nonobvious under §103(a), then any claim depending therefrom is nonobvious). Accordingly, Applicants respectfully request that the §103 rejections associated with claims 1-8, 10, 13-16 and 27 be withdrawn.

CONCLUSION

Applicants respectfully request a Notice Of Allowance for the pending claims in the present application. If the Examiner is of the opinion that the present application is in condition for disposition other than allowance, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below in order that the Examiner's concerns may be expeditiously addressed.

Respectfully submitted,

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